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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/785,557	02/20/2001	Cesare Bisleri	05788.0156	3504

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EXAMINER

THOMPSON, CAMIE S

ART UNIT	PAPER NUMBER
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1774

10

DATE MAILED: 08/28/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

8W

Office Action Summary

Application No.

09/785,557

Applicant(s)

BISLERI ET AL.

Examiner

Camie S Thompson

Art Unit

1774

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 53-99 is/are pending in the application.
- 4a) Of the above claim(s) 68-82 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 53-67 and 83-99 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. Applicant's election with traverse of Group I, claims 53-67 and 83-99) is acknowledged in Paper No. 9. Claims 68-82 are non-elected and remain withdrawn from consideration at this time.

Priority

2. The priority is not perfected. Please submit the ribboned copy of the priority documents.

Information Disclosure Statement

3. The information disclosure statement filed on February 4, 2002 fails to comply with 37 CFR 1.98(a)(3) because it does not include a concise explanation of the relevance, as it is presently understood by the individual designated in 37 CFR 1.56(c) most knowledgeable about the content of the information, of each patent listed that is not in the English language. It has been placed in the application file, but the information referred to therein has not been considered. European Patent Numbers: 0362929 and 366473 B1 do not have English language relevance translations.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who

Art Unit: 1774

has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

5. Claims 53-67 and 83-99 are rejected under 35 U.S.C. 102(e) as being anticipated by Caimi, U.S. Patent Number 6,339,189.

The Caimi reference is drawn to a low-tension, electrical cable that has fire retardant and moisture resistant properties that includes a metal conductor and at least a double layer polymer coating disposed to surround the metal conductor as per instant claims 53 and 83 (see abstract, column 1, lines 15-20 and column 4, lines 33-43). The reference also discloses that inner layer comprises a polymer matrix wherein the polymer maybe a polyolefin such as polyethylene and the inner layer has moisture resistant properties as per instant claims 53, 56-57, 83 and 86-87 (see column 4, lines 45-49 and column 8, lines 50-68). The outer layer is disclosed by the Caimi reference as comprising a base polymer matrix such as the copolymer polypropylene and a diene such as 1,3 butadiene wherein an inorganic charge such as magnesium hydroxide is dispersed in the copolymer and diene mixture to provide with the desired fire-resistance properties as per instant claims 58-64 and 88-94 (see column 4, lines 49-68 and column 6, lines 32-column 7, line 10). The reference also discloses that the outer layer contains a limited amount of coupling agent such as an unsaturated silane or ethylenically unsaturated carboxylic groups as per instant claims 66-67 and 96-97 (see column 5, lines 31-38 and column 6, lines 32-68). Caimi discloses that the

Art Unit: 1774

thickness of the inner layer is at least 0.4 mm while the outer layer thickness is 0.2; therefore, making the ratio of thickness of the outer and inner layer from 1 to 5 as per instant claims 53-55 and 83-85 (see column 10, lines 15-28). Caimi also discloses that the amount of magnesium hydroxide in the outer layer may range from 20% to 90% by weight as per instant claims 65 and 95 (see column 6, lines 32-46). The cable is disclosed in the reference as being found in such adverse work conditions such as electrical and petrochemical plants where there is a question of fire safety as per instant claim 99 (see column 9, lines 46-51). Also, the cable is disclosed as being advantageous in cables for power transmission that would be located outside and may be subject to wet weather conditions as per instant claim 98 (see column 9, lines 39-45). The method of passing electricity through a cable in claims 83-99 only recites the features of the fire and water resistant, low-voltage electrical cable and so Caimi reads on the method claims, 83-99. also.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 53, 56-67, 83 and 86-97 are rejected under 35 U.S.C. 103(a) as being unpatentable over Castellani et al., U.S. 6,162,548 in view of Hudson, U.S. Patent Number 6,255,594.

The Castellani reference is drawn to an electrical cable wherein the cable comprises a conductor and one or more coating layers, wherein at least one of the coating layers has electrical insulating properties and one of the coating layers is an outer protective sheath as per instant claims 53 and 83 (see column 2, lines 40-55). The reference discloses that at least one of the layers comprises a non-crosslinked base polymer material wherein the material comprises a crystalline propylene homopolymer and an elastomeric copolymer of ethylene with at least one alpha-olefin and optionally with a diene wherein the alpha-olefin may be propylene and the optional diene may be 1,3-butadiene as per instant claims 53, 56-63, 83 and 86-93 (see column 2, lines 17-39 and column 3, lines 13-61). Castellani also discloses that the polymer composition contains inorganic filler such as magnesium hydroxide that has fire-resistant properties in an amount ranging from 10% to 80% by weight as per instant claims 53, 64-65, 83 and 94-95 (see column 5, line 52 – column 6, line 9). Coupling agents such as an unsaturated silane and ethylenically unsaturated dicarboxylic acid and their anhydrides and esters are disclosed in the reference as per instant claims 66-67 and 96-97 (see column 6, lines 10-33). The Castellani reference does not disclose that the ratio of the thickness between the layers is 1:7 as per instant claim 53. Hudson teaches a fire resistant communications cable that comprises a metal conductor wire such as copper, a layer surrounding the copper being formed from an insulating polymeric material and an outer layer as per instant claim 53 (see column 1, lines 5-15). Hudson also teaches that the copper conductor wire is encased within a 0.245 mm layer of polyethylene insulation and an outer layer that is 50 micrometers thick; therefore, making the ratio of thickness between the outer layer and the inner layer approximately 1:5 (see column 6, lines 60-65). It would have been obvious to one of ordinary skill in the art to have the ratio of thickness between the outer

Art Unit: 1774

and inner layers be 1:7 so that the cables are acceptable for use in cavities and communications channels such as the plenum spaces above false ceilings in building (see Hudson: column 7, lines 24-30).

The method of passing electricity through a cable in claims 83-97 only recites the features of the fire and water resistant, low-voltage electrical cable and so Castellani reads on the method claims. 83-99, as well.

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Camie S. Thompson whose telephone number is (703) 305-4488. The examiner can normally be reached on Monday through Friday from 7:30 am to 4:00 pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cynthia H. Kelly, can be reached at (703) 308-0449. The fax phone numbers for the Group are (703) 872-9310 {before finals} and (703) 872-9311 {after finals}.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0661.

CYNTHIA H. KELLY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700

